creation and development of a sound body of law for the nation. Incidentally he treats of the Shylock problem.

Bernhard Windscheid was a man of a different type. Cold and slow in his speech, uninteresting in manner, lacking all the graces of the orator, he succeeded in attracting to Leipsic thousands of students by the magic of his name, and in holding their close attention by the profoundness of his reasoning, the clearness of his analysis, the aptness of his illustrations, the absolute logic of all his thought. No book is consulted as much in Germany by jurists, lawyers, and judges, no work is cited as often in every court of the Empire, as Windscheid's "Pandects." It is his one great work; and in it he has accumulated the whole literature of the development of Roman law, from before the time of Justinian to the present day. Each successive edition bears fresh evidence of his critical and analytical powers; a word or two suffices to characterize accurately the value, absolute and relative, of each new monograph or book on any branch of Roman law.

Windscheid was a member of the Commission to prepare a Code of Civil Law for the German Empire, from its inception in 1874 until 1883. His views must have influenced the decision of many a mooted point. But the decisive, though unconscious, influence of the man, or rather of the man as evidenced in his "Pandects," appeared when the first project of the Code was given to the public in 1888. The unanimous cry of the Germanistic school, the chief opponents of the Code, was that it is Windscheid's book with additions. The kernel of truth in the charge, though ground for opposition from those who believe that the spirit of the German and not of the Roman law should be the basis of the Code, was one of its chief merits in the eyes of its friends. Though Windscheid had taken no part in the deliberations of the Commission during its last five years, yet such was the power of his book that his analysis and classification, his views, and ofttimes his very words, had been adopted and perpetuated in the Code. Much will be changed before the Code becomes law, but the feeling in Germany is nearly unanimous that the fundamental lines must remain as recommended by the Commission.

The works of v. Ihering and Windscheid should find a place in every large library in which the pursuit of legal science holds at least some place with the eager search for judicial precedents.

FUSTEL DE COULANGES AND BRUNNER.[1] — In the second volume of his great work on the "History of German Law" Professor Brunner, to whom we are deeply indebted for his investigations into and discovery of the origin of the jury, has an interesting note on Fustel de Coulanges, the celebrated French author of the Ancient City. He says (vol. ii. page 2, note 2), "An exception [to the current of authority that Frankish law is a mixture of legal rules of both Germanic and Roman origin] is Fustel de Coulanges, for whom everything is Roman. Fustel de Coulanges is a man of valuable but peculiarly limited parts. His fundamental method is to take for examination a portion of the sources of law narrowly bounded both as to time and space, and to ignore purposely everything lying beyond this. The result is that he often misunderstands the sources and does not hesitate at violent interpretations in order to sustain the general result that he obtains from his narrow field of research. It

[1] We are indebted for this note to Julian W. Mack, Esq., of the Chicago bar.

does not seem to be superfluous to note this, because there is ground for anxiety in the fact that Fustel de Coulanges is beginning to obtain a following in Germany for his scientific system that rightly opposes the Babylonian tower of brilliant conjectures, but that from the very beginning shuts out every appreciation for the continuity of the development of legal history by condemning as unmethodical even the attempt to strive for it."

RECENT CASES.

ADMIRALTY — MARITIME LIENS. — *Held*, that a stevedore rendering services in loading or unloading cargo in other than the home port has a maritime lien therefor.

The Ilex, 2 Woods, 229, is overruled, and the rule on other circuits followed. The services of the stevedore are of a maritime character, and when performed for a vessel in a foreign port are not rendered upon the personal credit of the owner, and the stevedore is as much entitled to a lien as a person who loans money to the ship-master to pay the stevedore. *The Main*, 51 Fed. Rep. 954 (C. Ct. of App., La.).

CARRIERS — RAILROAD TICKETS — TRANSFERABILITY. — Where a railroad coupon ticket for passage over different roads was sold by one company as principal as to its own line, and as agent as to the other roads, at a reduced rate, and subject to the stop-over regulations of the different roads, but without any stipulation as to a continuous passage, or against its transfer, — *Held*, that the contract was not entire, but severable; and though the passage on any one road would have to be continuous, and by one holder, yet the ticket could be assigned at the end of any line, and would be good for the remainder of the journey in the hands of the transferee. *Nichols* v. *Southern Pacific Co.*, 31 Pac. Rep. 296 (Oregon).

This is in accord with *Hoffman* v. *Railroad Co.*, 45 Minn. 53.

CONSTITUTIONAL LAW — MANNER OF CHOOSING PRESIDENTIAL ELECTORS. — Public Acts of Michigan, 1891, No. 50, provide for choosing presidential electors by congressional districts instead of by all the people on one ticket. *Held*, that it is a question for the court whether such method of electing is constitutional. *Held*, also, that the method prescribed in said Act is constitutional. U. S. Const. art. 2, § 1, gives to the State legislatures full power to determine the mode of appointing electors. The fact that for many years it has been the custom to choose electors on a single ticket has not deprived the legislatures of the power originally given them. The fourteenth and fifteenth amendments to the Constitution are not violated by the law in question. The decision of the State court (52 N. W. Rep. 469) is affirmed. *McPherson et al.* v. *Blacker, Secretary of State*, 13 Sup. Ct. Rep. 3.

CONSTITUTIONAL LAW — POLICE POWER — COAL WEIGHING ACT. — A statute required operators and owners of coal mines, where the miner is paid on the basis of the amount of coal mined by him, to weigh the coal on pit cars before it is screened, and to compute the compensation on the weight of the unscreened coal. *Held*, that the statute was unconstitutional, because it deprived persons, without due process of law, of the property right of making contracts. *Ramsey* v. *People*, 32 N. E. Rep. 364 (Ill.).

This decision is in direct conflict with the recent case of *Peel Splint Coal Co.* v. *State*, 15 S. E. Rep. 1000 (W. Va.); but it carries out the reasoning of the mass of previous authority. Cf. *Frorer* v. *People*, 31 N. E. Rep. (Ill.), and cases there cited.

CONSTITUTIONAL LAW — TRIAL BY JURY OF LESS THAN TWELVE. — Under a provision of the Constitution that "the right of trial by jury shall remain," and that "the legislature may authorize a trial by a jury of a less number than twelve men," — *Held*, that an Act providing that after the impanelling of a jury, if from death, sickness, or any other cause any of the jurors should be unable to attend, the court might enter that fact on their journal, and the proceeding should then continue in the same manner and with the same effect as if the whole panel was present, was unconstitutional, as delegating to the court a discretion vested in the legislature. McGrath, C. J., and Montgomery, J., *dissent*. *McRae* v. *Grand Rapids L. & D. R. Co.*, 53 N. W. Rep. 561 (Mich.).

The decision seems unnecessarily strict. The legislature can hardly be said to